

1 GONZALEZ & LEIGH, LLP
2 MATT GONZALEZ (SBN 153486)
3 G. WHITNEY LEIGH (SBN 153457)
4 MATTHEW R. SCHULTZ (220641)
5 MATT SPRINGMAN (SBN 252508)
6 Two Shaw Alley, Third Floor
7 San Francisco, CA 94105
8 Telephone: (415) 512-2000
9 Facsimile: (415) 512-2001

10 Attorneys for Defendant
11 SUSAN POLGAR

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

12 UNITED STATES OF AMERICA CHESS
13 FEDERATION, INC., an Illinois not-for-
14 profit corporation, RANDALL D. HOUGH,
15 an individual,

Plaintiffs,

v.

16 SUSAN POLGAR, an individual,
17 GREGORY ALEXANDER, an individual
18 DOES 1-10, inclusive

Defendants.

Case No. 3:08-cv-05126-MHP

**DECLARATION OF G. WHITNEY
LEIGH IN SUPPORT OF DEFENDANT
SUSAN POLGAR'S [PROPOSED] REPLY TO
PLAINTIFFS' OPPOSITION TO MOTION
COMPEL**

Hearing Date: September 28, 2009
Time: 2:00 p.m.
Courtroom: 15, 18th Floor
Judge: Hon. Marilyn Hall Patel

1 I, G. WHITNEY LEIGH, declare and state as follows:

2 1. I am an attorney duly licensed to practice in the State of California and am a
3 partner in the law firm of Gonzalez & Leigh, LLP, counsel for Susan Polgar in this case. The
4 matters set forth herein are within my personal knowledge and if called and sworn as a witness, I
5 could competently testify thereto.

6 2. Attached here to as Exhibit A is an email exchange dated January 15, 2008 between
7 Susan Polgar, Randy Bauer, Karl Kronenberger, and others. The first is bates-labeled
8 KRON000297-99. The second is bates-labeled KRON 000839-40.

9 3. Attached as Exhibit B is an email exchange dated January 12, 2008 between Susan
10 Polgar, Randy Bauer, Karl Kronenberger, and others, bates-labeled KRON000767-769.

11 4. Attached as Exhibit C is an email exchange dated January 24, 2008 between Randy
12 Bauer, Karl Kronenberger, and others, bates-labeled KRON000501-502.

13 5. Attached as Exhibit D is an email exchange dated January 29, 2008 between Susan
14 Polgar, Randy Bauer, Karl Kronenberger, and others, bates-labeled KRON000531-534.

15 6. Attached as Exhibit E is an email exchange dated December 3-4, 2007 between Susan
16 Polgar and Karl Kronenberger, bates-labeled KRON000830-832.

17 7. Attached hereto as Exhibit F is an email exchange between Susan Polgar and Karl
18 Kronenberger dated December 5, 2007, bates-labeled KRON000596-598.

19 8. Attached as Exhibit G is excerpt from the June 30 and July 1, 2009 deposition
20 transcript of Susan Polgar.

21 9. Attached as Exhibit H is the Answer and Counter-Claim of Sam Sloan in the related
22 Texas action which include emails between Karl Kronenberger and members of the USCF
23 Executive Board. Docket No. 8.

24 10. Attached as Exhibit I are subpoenas plaintiffs' have served on third parties in the
25 present litigation. The subpoenas include a subpoena to Google at USCF000141-149.

1 11. I have read and reviewed Exhibit A to the Declaration of Sumeena Birdi in support of
 2 plaintiffs' opposition to Ms. Polgar's motion to compel. At page 8 of plaintiffs' opposition,
 3 plaintiffs cite this exhibit as support for their contention that "Google responded with documents
 4 that show that [the uscf-said blog] was created on July 31, 2008. . ." But the documents attached
 5 as Exhibit A to Ms. Birdi's declaration do not establish this assertion. Exhibit A to Ms. Birdi's
 6 declaration includes a printout provided by Google which Google describes as providing
 7 "*Subscriber and recent IP address information* for the Blogger account USCF-
 8 SAID.BLOGSPOT.COM." Docket No. 207, Birdi Decl. Ex. A at 2 (emphasis added). The following
 9 printout appears, however, to provide only the "date created" for the "*admin*" user ID, *not the*
 10 *blog*. *See id.* at 207-1, p. 3. But as explained below in Exhibit J to this declaration, while a
 11 Google blog can be created through one user ID, who is designated the initial "Admin,"
 12 thereafter, the user ID associated with the blog can change, and different user IDs can be
 13 assigned the "Admin" title. In other words, simply because the "recent IP address information"
 14 associated with the blog was created in July 2008 does not mean that the blog itself was created
 15 at that time. In fact, the blog could have been created much earlier through a different user ID.
 16 Also, the entire content of a blog can be "imported" into another, newly-created blog through a
 17 relatively simple procedure. *Id.* Thus, it is entirely possible that this blog with this URL existed
 18 prior to July 31, 2008. It is also possible that this blog using a slightly different URL existed
 19 prior to July 31, 2008 with the same content. At bottom, Plaintiffs' conclusion that this evidence
 20 "confirm[s] that the blog was created on July 31, 2008" is an unsupported interpretation of a very
 21 limited set of information, and should be stricken. Attached as Exhibit J are instructions and user
 22 questions and answers from the google.com blogger support site.

23 12. Attached as Exhibit K is a copy of Ms. Polgar's Unopposed Motion For Subpoena to
 24 Google, Inc. and Brief in Support in the related Texas action. Docket No. 147. I am informed
 25 and believe that this motion was granted, and that pursuant to the order granting this motion Ms.
 26 Polgar has issued a subpoena to Google seeking the identity of the creator of the uscf-
 27 said.blogspot website.

13. Attached as Exhibit L is a copy of the indictment issued against Gregory Alexander related to this case. Case No. 3:09-cr-00719, Docket No. 1.

14. On April 12, 2009, I and plaintiffs' counsel, Karl Kronenberger, conducted an in-person discovery conference. At my insistence, the conference was recorded and a transcript made. Attached as Exhibit M is a transcript of the April 21, 2009 in-person meet and confer between me and Karl Kronenberger.

15. Attached as Exhibit N is an April 27, 2009 letter from Karl Kronenberger to Whitney Leigh.

9 16. Attached as Exhibit O is an April 29, 2009 letter from Whitney Leigh to Karl
10 Kronenberger.

11 17. Attached as Exhibit P is an April 30 letter from Karl Kronenberger to G. Whitney
12 Leigh.

13 18. Attached as Exhibit Q is a May 1, 2009 letter from Whitney Leigh to Karl
14 Kronenberger.

15 19. Our office has produced every email between Kronenberger and the UCSF Executive
16 Board in our possession. Attached as Exhibit R are the May 4, May 8, and June 10 document
17 productions containing all communications between Kronenberger and the Executive Board.

18 20. Attached as Exhibit S are documents produced by the defendants in the Texas action,
19 bates labeled KRON1113-1128.

20 I declare under penalty of perjury, under the laws of the State of California, that the
21 foregoing is true and correct. Executed on September 17, 2009 at San Francisco, California

/s/ G. Whitney Leigh
G. WHITNEY LEIGH